

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPEAL NO. 194 OF 2024**

Aruna Talagapu Kusumuru
Satish Aruna @ Vijaya Chinnaradu
Talagapu ...Appellant
Versus
State of Maharashtra & Anr. ...Respondents

Ms Tahera Qureshi for the Appellant.
Ms Megha S. Bajoria, APP for the Respondent/State.
Mr. Bharat Gadhavi i/b Mr. Surendra Sonawane for Respondent
No.2.

**CORAM : N. R. BORKAR, J.
DATE : 9 MAY 2024.**

PC:-

1. The appellant, who is an accused in Crime No.418 of 2023 registered with Khadki Police Station, Pune for the offences punishable under Sections 324, 354, 504 read with 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC & ST Act"), has filed this appeal against the order dated 2.12.2023 passed by the learned Special Judge, Pune in Criminal Bail Application No.7201 of 2023. By the order impugned, the learned Special Judge has rejected the application filed by the present appellant for anticipatory bail.

2. I have heard learned counsel for the appellant, learned APP for the respondent/State and learned counsel for the respondent No.2.

3. According to the prosecution, there was dispute between the parties on account of seepage of water from the flat occupied by the complainant, to the flat occupied by the appellant. It is alleged that on the date of incident which took place on 5.11.2023, on account of the said dispute, the present appellant and her husband, who is the co-accused in the present crime, had hurled caste related abuses towards the complainant and her family members, who belong to Scheduled Caste. There are allegations of assault and outraging modesty.

4. Learned counsel for the appellant submits that in relation to the dispute between the parties, the complaint was lodged with Assistant Works Manager/AH for General Manager/AFK. It is submitted that the complainant and her family members were thus annoyed and on the date of incident they came to the house of present appellant with a view to assault them. It is submitted that even otherwise the main allegations are against the husband of present appellant and there is no need of custodial interrogation. It is submitted that interim anticipatory bail granted by this Court by order dated 29.2.2024 be thus confirmed.

5. On the other hand, the learned APP for the respondent-State and learned counsel for respondent No.2 submit that the present appeal for anticipatory bail may not be entertained in view of bar contained under Section 18 of the SC & ST Act as there are specific allegation in the FIR relating to abuses on the

caste of complainant. It is further submitted that the complainant and her family members were brutally assaulted. It is thus submitted that appeal be dismissed.

6. I have perused the FIR. The allegations in relation to the abuses on caste are not specifically attributed to the present appellant. As regards the allegations of assault and even of outraging the modesty are against the husband of present appellant.

7. Apart from the above, this Court while granting interim anticipatory bail has observed that *"so far as the abuse in the name of caste is concerned, there are no statements of the independent witnesses on record"*. In that view of the matter, the bar contained under Section 18 of the Act would not attract.

8. The Appeal is allowed.

9. The impugned order dated 2.12.2023 passed by the learned Special Judge, Pune in Criminal Bail Application No.7201 of 2023 is set aside. The interim anticipatory bail granted by this Court by order dated 29.2.2024 is hereby confirmed.

10. The appellant shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate in the investigation.

(N.R. BORKAR, J.)